

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 13-cr-20568

Hon. Mark A. Goldsmith

vs.

DONALD RAYMOND CROFT,

Defendant.

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ORDER

DENYING DEFENDANT’S MOTION FOR LEAVE TO FILE AMENDMENT (Dkt. 157)
AND DENYING DEFENDANT’S MOTION FOR THE APPOINTMENT OF COUNSEL
(Dkt. 158)

This matter is before the Court on two motions filed by Donald Croft. Croft first asks that the Court grant him leave to file an amendment to his motion to vacate his sentence pursuant to 28 U.S.C. § 2255 (Dkt. 157). The Court denies the motion. Croft has filed a reply to his motion (Dkt. 147), and was already given leave to file an amended reply (Dkt. 153). Further, the sole issue he seeks to raise in an amendment is that the Bureau of Prisons is preventing him from advancing in the Residential Drug Program. Def. Mot. at 1-2. A § 2255 motion attacks the petitioner’s underlying conviction and sentence; it is not a vehicle for a prisoner to raise issues concerning his treatment in prison. See, e.g., United States v. Gonyea, No. 94-80346, 2012 WL 5205874, at *2 (E.D. Mich. Oct. 22, 2012) (“[S]ection 2255 . . . addresses collateral attacks on the underlying conviction and imposition of sentence. . . . [D]efendant’s complaints about the conditions of his confinement . . . are not proper under § 2255.”).

In his other motion, Croft requests that this Court appoint him counsel (Dkt. 158). Croft states that he will shortly be released to a halfway house, where he will have no access to any of

the law library facilities that are provided to him in prison. Def. Mot. at 1. The Court also denies this motion. There is no right to counsel in a § 2255 proceeding, Zack v. United States, 9 F. App'x 394, 400 (6th Cir. 2001), and Croft has already fully briefed his § 2255 motion. It may very well be the case that no further legal work is necessary.

Accordingly, Defendant's motion for leave to file amendment (Dkt. 157) and motion for the appointment of counsel (Dkt. 158) are denied.

SO ORDERED.

Dated: February 12, 2019
Detroit, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on February 12, 2019.

s/Karri Sandusky
Case Manager